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TAGS: [APER](#) [MARR](#) [TU](#)  
SUBJECT: REQUESTING DIPLOMATIC STATUS FOR OFFICE OF DEFENSE  
COOPERATION PERSONNEL IN TURKEY

#### Summary

1. Post requests Department approve diplomatic status for Office of Defense Cooperation (ODC) Turkey personnel in accordance with 3 FAH-1 H-2438.2 in lieu of status under the NATO Status of Forces (SOFA) Implementing Agreement with Turkey. ODC Turkey Chief enjoyed diplomatic status until 2005, when it was revoked by the Foreign Ministry with the argument that ODC personnel are not part of U.S. Embassy Turkey -- an argument we reject. ODC personnel are under Chief of Mission authority, work on a Turkish base but in a dedicated U.S.-leased facility which receives ICASS support, and perform functions that directly contribute to Mission goals as described in the Mission Strategic Plan. ODC personnel negotiate and draft agreements, contracts, letters of offer and acceptance, and other contractual instruments, worth millions of dollars and enjoying a high political profile, that may expose them to civil liability in the course of their activities. Hence the need for diplomatic immunities beyond those offered by the SOFA. The parity principle also argues that ODC personnel, who directly contribute to Mission goals and the success of the bilateral relationship, enjoy the same privileges as their State and other agency counterparts at post. According to our information, ODC Turkey is one of only four such ODCs in the world whose personnel do not enjoy diplomatic status. End Summary

#### History

2. ODC Turkey personnel have traditionally been under the NATO Status of Forces and NATO SOFA Implementing Agreement of 1954. However, the ODC Turkey Chief, an Air Force Major General billet, enjoyed diplomatic status for over 25 years until 2005, when it was revoked by the Foreign Ministry with the argument that ODC is not part of the U.S. Embassy in Turkey but is rather subordinate to European Command (EUCOM). We dispute this view. Under U.S. Code, Title 22 Section 2321i, members of the military assigned to foreign countries to perform security assistance functions serve under the direction and supervision of the Chief of the United States diplomatic mission to that country. EUCOM supports our view as most ODCs in EUCOM's area of responsibility enjoy diplomatic status. OSD support for diplomatic status for ODC Turkey was expressed in DSCA Chief Lt Gen Jeffrey Kohler's January 23, 2006 letter to the State Department's Title and Rank Officer requesting diplomatic status for ODC personnel.

#### Justification

3. Chief of Mission Authority. ODC personnel fall under Chief of Mission authority per 22 USC 2321i. They are an integral part of Mission Turkey, participating in embassy

substantive and administrative functions, including ICASS. The ODC Chief and his deputies are represented on the Country Team and ODC personnel routinely participate in Embassy meetings, briefings, and representational events. The ODC Chief served as acting Deputy Chief of Mission for a period in 2006. ODC activities, including the management of security cooperation functions as well as the negotiation and implementation of the Defense Economic Cooperation Agreement (DECA) and numerous other bilateral agreements and memoranda of understanding, directly contribute to mission goals as described in the Mission Strategic Plan, particularly in promoting regional stability and counter-terrorism cooperation. ODC programs, such as FMF and IMET, directly contribute to fostering improved military relations with this key NATO Ally which in turn promote broader bilateral cooperation and which contribute directly to U.S. security. ODC Turkey is currently the only Mission component that does not enjoy diplomatic status. According to 7 FAM 1311.3-3 diplomatic passports are issued to all full-time Federal employees, including military personnel assigned abroad, who are directly under the authority of the Chief of Mission.

¶4. ODC Facility. We believe that the ODC facility constitutes an Embassy annex as described in 3 FAH-1 Exhibit ¶2439. ODC personnel undertaking functions under Chief of Mission authority operate on a Turkish military base but in a dedicated, leased facility that is accessible to other Mission personnel as necessary. The facility is clearly identified as U.S. by the presence of a U.S. flag and other symbols, 24 hours per day. U.S. personnel provide internal security. ODC facilities and personnel receive ICASS support and are full participants in ICASS, to include procurement, vouchering and cashier functions. Construction projects for the ODC Ankara facility are coordinated, approved and executed by the Embassy's contracting office.

¶5. Job Requirements. ODC personnel perform security assistance activities as well as negotiate, manage and implement the Defense Economic Cooperation Agreement (DECA) and a host of other agreements and understandings in support of U.S. Government activities and goals in the entire region. ODC personnel undertake contract negotiations, including with local defense contractors and firms, involving millions of dollars. ODC personnel work directly with U.S. firms and the Turkish Ministry of Defense Undersecretariat for Procurement on high-value commercial sales and Foreign Military Sales (FMS). ODC personnel also contract and manage the supply and provisioning of U.S. forces operating in the region, particularly in support of Operation Iraqi Freedom. Security cooperation activities here enjoy a very high profile and have great political sensitivity. The NATO SOFA gives primary jurisdiction to Turkey for most offenses and only very limited protection against civil judgments. Therefore ODC personnel remain vulnerable to civil litigation as they undertake a wide variety of sensitive contractual activities essential to the performance of their duties.

¶6. Parity. Unlike accredited Mission personnel, ODC personnel are not exempt from value-added taxes (VAT). ODC as an organization only receives partial tax relief under the SOFA, resulting in higher ODC payments for utilities and other services. According to our information, ODC Turkey is one of only four ODC offices worldwide (the others are in Afghanistan, Rwanda, and Uzbekistan) whose direct hire employees do not enjoy some level of diplomatic status.

#### The Way Ahead

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¶7. Upon Department concurrence that Mission may request appropriate diplomatic titles/status for ODC personnel stationed here under Chief of Mission authority, post will submit forms DS-1474 for each requested position. Upon approval of diplomatic status, post will formally inform the Ministry of Foreign Affairs that said personnel are full Mission members under Chief of Mission authority and will request they be accorded appropriate immunities and privileges under the Vienna Convention on Diplomatic

Relations.

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